

Dissenting Views of Commissioner Thompson

In AO 1975-69, the Commission has ignored the clear language of the statute and ruled that a loan is a contribution only to the extent that the principal remains unpaid.

The definition of the term contribution in 18 U.S.C. §591(e) states:

"contribution" - (I) means a gift, subscription, loan, advance, or deposit of money or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, which shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance thereof that each endorser or guarantor bears to the total number of endorsers or guarantors), made for the purpose of influencing the nomination for election, or election, of any person to Federal office ... (emphasis added)

Thus, a loan made by a national or State bank is considered a contribution by any endorser or guarantor of such loan only to the extent of the unpaid balance. In addition, under 18 U.S.C. §608(a)(4), a loan or advance by a candidate or his family is subject to limitation only to the extent of the balance of such loan or advance outstanding and unpaid. While specific exemptions are made in each of these cases, there is no exception of this nature made for any other type of loan. Congress clearly intended that loans made by other than the candidate and his family or national or State banks would be considered contributions even after they

were repaid. Otherwise, a specific exemption would have been made. Thus, the Commission has made the exemption the rule.

Date 8 DEC 1975

  
Commissioner Vernon Thomson